1942

File No. O. Pub. Trust/Regsn /42

Legal DEPARTMENT

A BRANCH

Subject:—

1715

Opinions under the Bombay

Public Trusts Registration Act, 1935

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Std. Sectt. Slip 24 B a.

210-A.

C O N T E N T S.

Legal Department File O. Pub. Trusts Registration / 42

Sr. No.	Compilation No.	Subject	Pages
1.	O.No. 1062 dt.6-2-42	Public Trusts Registration Act, 1935 - Section 14 — Whether the Registrar of Public Trusts, B'by can incure expenditure for purchase of furniture etc. out of the trust funds under his control without the previous sanction of Govt.	1-2
2.	O.No.4124 dt.19-6-42	Whether the Registrar can incure expenditure for the employment of clerical staff out of the trust fund under his control without the previous sanction of Gov-ernment.	3-4
3	O.N.R.D.No.1277/39 dt 6-7-42	~~Ban~~ Power (s) ~~Registration~~ of Public ~~Trusts~~.	5.

B.A.K.

JK/4/15

Office of the R.L.A.

The question for consideration of the R.L.A. is whether the Registrar of Public Trusts, Bombay, can incur expenditure for purphase of furniture etc. out of the trust funds under his control without the previous sanction of Government.

2- Under section 14 of the Bombay Public Trusts Registration Act, 1936, every public trust has to make an annual contribution to the Public Trusts Administration Fund for meeting incidental expenses and maintenance of registers etc. The fund is created under section 15. Section 16 provides that subject to the provisions of this Act, the fund shall be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of the Act. Similar provision is made in section 15,16,and 17 of the Parsi Public Trusts Registration Act, 1936 and sections 6I,6J and 6K of the Mussalman Wakf (Bombay Amendment) Act, 1935. These provisions appear to be very wide. It is one of the duties of the Registrar under section 7 of the Bombay Public Trusts Registration Act, 1935, to record entries and file statements in the Register of Public Trusts. (Ibid sections 7 and 6D of the respective Acts) It is also his duty under rule 17 of the Bombay Public Trusts Registration Rules , 1937, to keep in custody all papers such as statements, audit reports and copies of deeds and instruments etc. (see also Rule 17 of the Parsi Public Trusts Registration Rulrs, 1937, and rule 11 of the Bombay Mussalman Wakf Rules, 1936). Any expenditure incurred by the Registrar for the purchase of furniture such as steel cabinets, safes, tables, chairs etc. would be incidental to the registration of trusts and maintenance and preservation of such registers. The view taken by the Secretary, Revenue Department, at page 55 ante, is correct.

O.C. P.N M.
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Remembrancer of Legal Affairs,

U.O. to R.D.No.1062 dated the 5th February 1942.

S.A.
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reports and copies of deeds or instruments furnished to the Registrar under the Act and other papers relative to the same shall be kept in the custody of the Registrar. Under rule 19, the management, custody, investment and disbursement of the fund vests in the Registrar. (See corresponding rules 16, 17 and 20 of the Parsee Public Trusts Registration Rules, 1937). One of the first principles of law with regard to the effect of an enabling act is that if the Legislature enables something to be done, it gives power at the same time, by necessary implication, to do everything which is indispensable for the purpose of carrying out the purpose in view. (pp. 229.230 of Craies on Statute Law). Power conferred upon the Registrar to incur expenditure for maintenance of registers of trusts implies power to employ the necessary staff for maintaining such registers. The employment of an adequate staff being for the purpose of carrying into effect the provisions of the two Acts, the Registrar would be competent to incur the necessary expenditure for the purpose from the Trusts Administration Fund without the sanction of Government under section 16 of the Bombay public Trusts Registration Act, 1935 and section 18 of the Bombay Parsee Public Trusts Registration Act, 1936. The view taken by the District Judge, Ahmedbad, in his letter at p. 59 ante tis correct.

~~S.C.~~ P.N.M.

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Remembrancer of Legal Affairs,

U.R. to R.D.No. 4124, dated the 19th May 1942.

S.A.R.

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Office of the R.L.A.

The question for the R.L.A's consideration is whether the Registrar, Public Trusts can incur expenditure for the employment of clerical staff out of the trust fund under his control without the previous sanction of Government.

2- Under section 15 of the Bombay Public Trusts Registration Act, 1935, for each district or area for which a Registrar is appointed under section 4 , there shall be created fund to be called the Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the sums mentioned in clauses (a) to (d). Section 16 provides that subject to the provisions of this Act, the Public Trusts Administration Fund shall be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act. Similar provision is made in sections 16 and 17 of the Parsee Public Trusts Registration Act, 1936. It is one of the duties of the Registrar to record entries in the register of public trusts, to amend the entry or entries affected by the change in particulars recorded in the register and to file statements (vide sections 7 and 8 of the Bombay Public Trusts Registration Act, 1935 and the Parsee Public Trusts Registration Act, 1936). Under section 13 of the former Act and section 14 of the latter Act, any person having an interest in any public trust shall, on payment of the prescribed fees, be xx entitled to inspect or obtain copies of entries in such register or of any other document. Rule 16 of the Bombay Public Trusts Registration Rules, 1937, prescribes fees for supply of copies. Rule 17 provides that the statements, audit

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